IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7783 OF 2006

Shri Mahadeo Malkari Mali ..Petitioner

Vs.

Shri Shivaji Dhanba Todkar & Anr. ..Respondents

Mr.Sural S. Shah for the petitoner

CORAM : A.P.DESHPANDE, J

DATED : 29TH NOVEMBER, 2006

P.C.:

1. The respondent no.1 and his mother executed a registered sale deed in favour of the present petitioner and respondent no.2 . The sale deed is in regard to land admeasuring O-11 Ares. The sale deed is executed on 26.7.01. The respondent no.1 and his mother filed Regular Civil Suit No.226 of 2001 for setting aside the above sale deed on the ground of fraud. Issues were framed. One of the issue being in relation to whether the part of land sold, constitutes a fragment. The said issue is referred to the competent authority under the Bombay Prevention of Fragmentation and

Consolidation of Holdings Act. The said authority held that the transfer is hit by the provisions of the said act. Aggrieved thereby, the petitioner again filed yet another application before the same Competent Authority for review of its order and the petitioner succeeded in the review application. Further in writ petition filed by respondent no.1 in this court the learned single Judge, allowing the writ petition, set aside the review order by holding that the competent authority under the said act has no power to review his own order.

2. In this fact situation the learned single Judge disposing of the earlier writ petition had permitted the parties to take appropriate steps before the appropriate forum. The learned counsel for the petitioner submits that he had already filed a review before the State Government and the same is pending. It is not in dispute that the State Government has not granted any stay to the order passed by the competent authority under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act.

3. In this view of the matter, the trial court has been trying to proceed with the civil suit and on number of occasions, the petitioner has done nothing except moving the adjournment application one after another. The order under challenge in the present petition is rejecting the adjournment application.

4. I do not find any fault in the order impugned in this petition. It is for the petitioner to have the proceedings in the review pending on the file of the State Government to expedite or obtain appropriate orders in regard to stay. There being no merit in the petition, same is summarily dismissed.

(SHRI A.P.DESHPANDE, J)